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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,478	11/14/2000	James A. Laugharn Jr.	07985-012002	6793

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Fish & Richardson
225 Franklin Street
Boston, MA 02110-2804

EXAMINER

WILSON, JAMES O

ART UNIT PAPER NUMBER

1623

DATE MAILED: 02/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/530,478

Applicant(s)

Laugharn et al.

Examiner

James O. Wilson

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-5, 9, 11, 13-17, 59-67, 69-80, 82-84, 91-95, and 97-102 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims 1-5, 9, 11, 13-17, 59-67, 69-80, 82-84, 91-95, and . are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other:

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EXAMINER'S AMENDMENT

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-5, 9, 11, 13-17, 59, 93-97, drawn to a pressure modulation device, classified in Class 422, subclass 137.

Group II, claim(s) 60-66, drawn to a device for pressurizing a sample, classified in Class 422, subclass 81.

Group III, claim(s) 67-70, drawn to a method for permeabilizing cells using the device of Group II classified in class 435, subclass 173.5.

Group IV, claim(s) 71, drawn to a method for improving ion exchange capabilities, classified in Class 435, subclass 173.7.

Group V, claim(s) 72-80, 82-84, 91-92 and 98-99, drawn to a method for isolating molecules from cells classified in Class 435, subclass 2.

Group VI, claim(s) 100, drawn to a method for the disruption of virus cells or tissue, classified in Class 435, subclass 236 .

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Group VII, claim(s) 101-102, drawn to a method for inactivating a protein, classified in Class 435, subclass 183 .

2. The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The Joy et al. Apparatus is seen to anticipate the invention as set forth in Group II, see column 3, lines 29-64. The disclosure of two separate pressurizing devices, which introduces a gas into the sample compartment (platen) . The pressurized medium goes into the bag-like means, and not into the sample compartment, anticipating the apparatus of Group II.

The Rehr et al. Patent 5,102,795 teaches it is well known in the art to permeabilize cells (as asserted in Group III) with a chemical compound, see column 1, lines 25-26 and lines 42-49. Toluene and Cationic surfactants are recognized in the art as chemical compounds which may be applied, in the absence of a device, to permeabilize cells. This disclosure teaches that permeabilizing cells does not require the particulars of a pressurizing device of any type to accomplish same.

The Berenguer et al. Patent 5,051,202 teaches it is well known in the art to improve ion exchange capabilities of compounds for use in chromatography by using increased pressure, see column 2, lines 53-58. This disclosure teaches that this well known technique, using increased pressure, anticipates the use of pressure to enhance the capability of an ion exchange material.

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The D'Silva patent 5,762,867 teaches the there are systems and apparatuses for treating fluids with a photoactive material to remove contaminants from said fluids. This disclosure teaches it is known in the art to remove molecules from cells and components from liquid samples which do not mention the need for pressurizing the sample. This disclosure teaches that the removal of molecules from a fluid or the isolation of a biological component from a liquid sample (e.g. blood), does not require the use of pressurized devices.

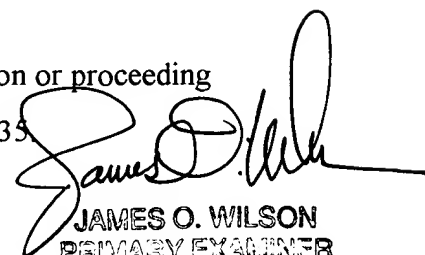
The Mrabet et al. patent 5,290,690, teaches it is well known in the art to inactivate a protein by the use of a chemical reagent, see column 2, lines 5-10. The introduction of pressure to accomplish same is not disclosed in the Mrabet et al patent, thus verifying the particulars of the pressurizing device is not required to accomplish the task of the method claimed.

The art cited supra establishes that the claims in this application are not so linked by a special technical feature within the meaning of PCT Rule 13.2 and 13.3 so as to form a single inventive concept.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Wilson, Primary Examiner in Art Unit 1623 whose telephone number is (703) 308-4624. The examiner can normally be reached on Monday-Friday from 10:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Geist, can be reached on (703) 308-1701. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.


JAMES O. WILSON
PRIMARY EXAMINER
GROUP 1600